

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS  
ON REFERRAL BY THE COMMISSIONER OF HEALTH AND SOCIAL SERVICES**

In the Matter of	)	
	)	OAH No. 12-0597-SNA
D A. C	)	Former OHA Case No.
_____	)	DPA Case No.

**DECISION**

**I. Introduction**

There are two issues in this case. The first issue is whether resigning from one's employment, in anticipation of possible but not certain dismissal from that employment, constitutes the voluntary termination of employment for purposes of the Supplemental Nutrition Assistance Program (SNAP).<sup>1</sup> The second issue is whether a SNAP recipient is entitled to challenge a work requirement-related penalty imposed over three years prior to the recipient's request for a hearing.

This decision concludes that, because Ms. C resigned from her job before it was certain that she would be dismissed by her employer, the Division of Public Assistance (DPA or Division) was correct to impose a "job quit penalty" in Ms. C's SNAP case. This decision further concludes that federal SNAP regulations prohibit a recipient from contesting actions taken in the recipient's SNAP case more than three years prior. Accordingly, the Division's decision imposing a second-time SNAP penalty, (in effect denying Ms. C's March 1, 2012 SNAP application), is AFFIRMED.

**II. Facts<sup>2</sup>**

Ms. C has received SNAP benefits on and off since May 2008.<sup>3</sup> She was employed by the State of Alaska in February 2012.<sup>4</sup> While employed by the State she experienced housing and transportation issues which caused both job tardiness and absenteeism. She was disciplined several times for her job tardiness and absenteeism and was facing a disciplinary hearing at the end of February 2012. The union representative who was representing Ms. C at that hearing told Ms. C that the hearing would probably result in her being fired and losing rehire rights with the State.<sup>5</sup> The union representative suggested that Ms. C resign instead of going through with the hearing

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<sup>1</sup> Congress amended the Food Stamp Act in 2008. The 2008 amendment changed the official name of the Food Stamp Program to the Supplemental Nutrition Assistance Program ("SNAP"). This decision uses the new ("SNAP") terminology.

<sup>2</sup> Facts stated in this paragraph are taken from Ms. C's hearing testimony unless otherwise indicated.

<sup>3</sup> Ex. 13.

<sup>4</sup> Ex. 2.

<sup>5</sup> Exs. 12.0, 12.1.

because this course of action would allow her to retain her rehire rights. Ms. C resigned from her job with the State of Alaska on February 27, 2012.<sup>6</sup>

Ms. C applied for SNAP benefits on March 1, 2012.<sup>7</sup> The Division determined that she was not eligible for SNAP benefits because she had voluntarily quit her job, and denied her application.<sup>8</sup> The Division also determined that Ms. C had a prior SNAP work requirement penalty issued on September 18, 2008 which closed Ms. C's SNAP case for a 30 day period, from October 1, 2008 through October 31, 2008.<sup>9</sup> As a result of the 2008 penalty, the Division concluded that the 2012 "job quit penalty" would be Ms. C's second SNAP penalty and that she was not eligible to receive SNAP benefits for a 90 day period beginning February 27, 2012 and ending May 27, 2012.<sup>10</sup> Ms. C requested a hearing on these issues on March 6, 2012.<sup>11</sup>

Ms. C's hearing was held on April 4, 2012. The hearing was recorded. Ms. C attended the hearing in person, represented herself, and testified on her own behalf. Ms. C's mother, Bonnie Douglas, participated in the hearing by telephone and testified on behalf of her daughter. DPA Public Assistance Analyst Terri Gagne attended the hearing in person, represented the Division, and testified on its behalf.

With regard to the September 18, 2008 job quit penalty, Ms. C testified that it was not justified and that, in any event, she never received notice that this penalty was being imposed. The Division introduced a copy of the September 18, 2008 job quit penalty notice and asserted that it had been mailed to Ms. C.<sup>12</sup>

With regard to the September 18, 2008 job quit penalty, Ms. C testified that she quit her job only because she believed she would be terminated if she did not resign. However, she did not assert that she had been told by her employer that she would *definitely* be fired if she did not resign.

### **III. Discussion**

The SNAP / Food Stamp program has a work requirement. A person receiving or applying for SNAP benefits is required to be employed, looking for employment, or training for employment,

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<sup>6</sup> C testimony; Exs. 12.0 – 12.1.

<sup>7</sup> Exs. 3.1 – 3.10.

<sup>8</sup> Exs. 5.0 – 5.1.

<sup>9</sup> Ex. 4.2.

<sup>10</sup> Exs. 5.0 – 5.1.

<sup>11</sup> Ex. 6.1.

<sup>12</sup> Ex. 4.2.

unless that person is exempt from the work requirement.<sup>13</sup> A person who voluntarily and without good cause quits a job of 30 or more hours a week (or the weekly wage equivalent of 30 hours at the federal minimum wage rate of \$7.25 per hour), during the 60 day time period immediately preceding his or her SNAP application, is not eligible to receive SNAP benefits.<sup>14</sup>

With regard to the 2008 job quit penalty, the Division's records show that Ms. C received SNAP benefits through September 2008; that she did not receive them for October 2008; and that she received expedited Food Stamp benefits for November 2008.<sup>15</sup> These records, in conjunction with the 2008 penalty notice contained in the Division's records, prove by a preponderance of the evidence that the Division imposed a work requirement penalty on Ms. C in 2008. Further, even if she did not receive the penalty notice for some reason, she would have become aware of the imposition of the penalty because she did not receive SNAP benefits for the month of October 2008.<sup>16</sup> Accordingly, Ms. C would have had actual notice of imposition of the 2008 penalty by November 1, 2008.

Pursuant to federal regulations, SNAP recipients have only 90 days from the date they receive notice of an action reducing or terminating their benefits to request a hearing to challenge that action.<sup>17</sup> In this case, the 90 day period had expired by February 1, 2009; Ms. C's challenge to the 2008 penalty is over three years too late. Ms. C cannot dispute the 2008 work requirement penalty at this late date; its legitimacy is established.

With regard to the 2012 penalty, the undisputed facts show that Ms. C was told she would *probably* be dismissed as a result of her upcoming disciplinary hearing. However, her dismissal was not a certainty. Ms. C chose to resign rather than go through the hearing process and face the *possibility* of being fired.

This raises the question of whether the *possibility* of being fired constitutes good cause for an employee's resignation. The SNAP regulations contain a number of examples of good cause for quitting a job, such as inability to obtain child care, unavailability of transportation, and

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<sup>13</sup> 7 C.F.R. § 273.7(a)(1).

<sup>14</sup> 7 C.F.R. § 273.7(j)(2)(i); 7 C.F.R. § 273.7(j)(3)(ii); *Alaska Food Stamp Manual* §602-1I(2)(a).

<sup>15</sup> Ex. 13. This factual finding does not mean to imply that Ms. C's testimony was less than truthful. However, given the passage of time between the fall of 2008 and the April 2012 hearing, her inability to recall is understandable.

<sup>16</sup> See Exs. 4.2 and 13.

<sup>17</sup> 7 C.F.R. § 273.15(g).

unreasonable working conditions.<sup>18</sup> However, a voluntary resignation based on the mere *possibility* of being fired does not fit within any of these exceptions.

Accordingly, under the SNAP regulations, Ms. C did not have good cause to quit her job in 2012. Ms. C was therefore subject to a job quit penalty which made her temporarily ineligible to receive SNAP benefits. Further, because (as discussed above) a job quit penalty had previously been imposed on Ms. C in 2008, the 2012 penalty constitutes her second penalty. This is important because a first time work requirement penalty makes an applicant ineligible for SNAP benefits for 30 days, while a second work requirement penalty makes an applicant ineligible for 90 days.<sup>19</sup> The disqualification period begins on the day the job was quit.<sup>20</sup>

In summary, because the work requirement penalty issued by the Division in this case was Ms. C's second penalty, it made her ineligible to receive SNAP benefits for a 90 day period beginning on the date she resigned from her job (February 27, 2012). Ms. C was therefore not eligible to receive SNAP benefits when she applied for them on March 1, 2012.

#### **IV. Conclusion**

The Division's decision to deny Ms. C's SNAP application is **AFFIRMED**.

DATED this 2<sup>nd</sup> day of August, 2012.

*Signed* \_\_\_\_\_  
Jay Durych  
Administrative Law Judge

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<sup>18</sup> 7 C.F.R. § 273.7(i)(2) and (3).

<sup>19</sup> 7 C.F.R. § 273.7(f)(2)(i)(B) and (ii)(B); *Alaska Food Stamp Manual* §602-1I(2)(c).

<sup>20</sup> *Alaska Food Stamp Manual* §602-1I(2)(d).

## Adoption

The undersigned, by delegation from of the Commissioner of Health and Social Services, adopts this Decision under the authority of AS 44.64.060(e)(1), as the final administrative determination in this matter.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 13<sup>th</sup> day of August, 2012.

By: *Signed*  
Name: Jay D. Durych  
Title: Administrative Law Judge

[This document has been modified to conform to the technical standards for publication.]